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In re Application of  
BIKHOVSKY et al.  
Application No.: 10/518,022  
PCT No.: PCT/IL03/00520  
Int. Filing Date: 18 June 2003  
Priority Date: 18 June 2002  
Attorney Docket No.: BIKHOVSKY2  
For: ELECTRICAL HEATING DEVICE,  
PARTICULARLY FOR HEATING  
PATIENT BODY

DECISION ON  
PAPERS UNDER 37 CFR 1.42

This decision is in response to applicants' "Reply to Decision of January 12, 2006, and Submission of Declaration under 37 CFR 1.42 and 1.497(b)(2)" filed 10 March 2006, which is being treated as a renewed request under 37 CFR 1.42. No petition fee is required.

**BACKGROUND**

On 18 June 2003, applicants filed international application PCT/IL03/00520, which claimed a priority date of 18 June 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 December 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 18 December 2004.

On 15 December 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 30 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 26 August 2005, applicants filed a declaration executed by: Dirth Bar-Adon as an inventor and Sergey Bikhovsky on behalf of the deceased inventor, David Bikhovsky. In a decision dated 12 January 2006, applicants' request under 37 CFR 1.42 was refused.

On 10 March 2006, applicants filed the present renewed request under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:


In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration submitted on 10 March 2006 is executed by Sergey Bikhovsky as the "executor" of the deceased inventor, David Bikhovsky. The declaration provides the residence, post office address, and country of citizenship for the deceased inventor and the executor. Therefore, the declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



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